

CHAPTER 4 PROJECTS

[Formerly Ch 3; Ch 4 IAB 5/25/83]

[Prior to 6/3/87, Railway Finance Authority[695], Ch 4]

765—4.1(17A,327I) Project application. Applicants desiring authority consideration for financial assistance of a project shall obtain application Form 890003 from: Iowa Railway Finance Authority, 800 Lincoln Way, Ames, Iowa 50010. The application shall be submitted to the secretary of the authority at the same address.

4.1(1) Additional required information.

a. Each application shall contain a clearly identifiable statement of the percent of total projected carload traffic for the project which the applicant projects will come from the movement of agricultural commodities and fertilizer as defined by the Standard Transportation Commodity Code.

b. Each application shall also state whether the five-year historical average traffic density on the line is less than or greater than five million gross ton miles per mile per year. A line with less than five million gross ton miles per mile per year historical average traffic density shall be considered a branch rail line under Iowa Code section 327I.23.

4.1(2) Pledges from project participants. If an applicant requests that the authority provide financial assistance through the issuance of obligations, or if the applicant requests a lease guarantee, the applicant shall submit with the application proposed pledges and liens from project participants as follows:

a. Monetary pledges from project participants must be sufficient, together with other moneys available to the authority, to allow the authority to either retire obligations proposed to be issued by the authority to assist the project or to make all payments on leases guaranteed by the authority to assist the project.

b. Liens proposed to be held by the authority must include liens against the assets of the project and against the assets of each participant in the project to the extent of that participant's pledged obligation. In this paragraph, a "pledged obligation" shall not include a grant or equity participation proposed to be provided to the project at its inception, but shall only include a pledged obligation of a future nature.

c. In this subrule, "project participant" means any proposed participant in a financial assistance contract with the authority.

4.1(3) The applicant shall notify the railroad or railroad's trustee presently owning, operating, or leasing any portion of the affected rail facility of the submission of an application for funding to the authority.

4.1(4) The authority shall notify the applicant of the completeness of the application by certified mail within 30 days of receipt.

4.1(5) For an incomplete application, the notice shall outline the additional information needed.

a. The applicant shall have 45 days from the date of the notice to respond.

b. The secretary may grant 30-day extensions when deemed necessary and when requested by the applicant.

c. If all the requested information is not received by the deadline, the incomplete application shall be returned to the applicant and may be resubmitted as a new application.

d. If all the requested information is received by the deadline, the authority shall notify the applicant by certified mail within ten working days that the application shall be processed as complete.

4.1(6) An applicant may appeal to the board a staff decision to return an incomplete application.

a. The appeal to the board shall be in accordance with rule 765—1.5(21,327I).

b. The board shall rule on the appeal on the day of the applicant's appearance.

c. If the board rules the application is complete, the staff shall process the application.

d. If the board rules the application is incomplete, the applicant may submit a new application.

4.1(7) An applicant may withdraw an application at any time.

This rule is intended to implement Iowa Code sections 17A.33 and 327I.7.

765—4.2(327I) Public announcement. An announcement of each application shall be published within 14 days of receipt.

4.2(1) The announcement shall include a description of the project and the date on which the application was received.

4.2(2) The announcement shall be published in one newspaper of statewide circulation and in one newspaper circulated in the area of the project.

4.2(3) Written public comments shall be accepted by the authority for 30 days following the date of publication.

This rule is intended to implement Iowa Code section 327I.7.

765—4.3(327I) Project analyses. The staff shall prepare an economic analysis and a financial analysis of each complete application and submit a recommendation based on these analyses to the authority.

4.3(1) *Economic analysis.* The economic analysis shall determine the net present value of the proposed project. The net present value shall be determined by subtracting the present value of project costs from the present value of benefits to the public, user(s), and carrier(s).

a. Public benefits shall include the savings in road construction and maintenance costs resulting from diverting traffic from public roads to the railroad.

b. User benefits shall include the change in net income the user(s) could accrue if rail service is maintained or improved versus if rail service is terminated or unimproved.

c. Carrier benefits shall include the change in net income (excluding depreciation of those project costs required in paragraph “d”) a carrier(s) could earn operating a facility if rail service is maintained or improved versus if rail service is terminated or unimproved.

d. Project costs shall include costs occurring from the use of labor, land, materials, and equipment directly attributable to the project. These costs shall be reduced by the value of salvageable materials to be replaced during the project.

e. The factors entered into the economic analysis shall be computed from the point of view of the entire state.

f. All benefits and costs shall be discounted to present value.

4.3(2) *Financial analysis.* The financial analysis shall be based upon, but not limited to, an examination of the projected cash flow of the project and the variable factors which may affect the cash flow. The analysis shall address the following questions:

a. What are the factors (e.g., number of carloads, interest rates, amount of equity to be invested) which may vary significantly enough to affect the cash flow and viability of the project, and what may be the projected effect upon cash flow of these variations?

b. Can the project reasonably be expected to generate enough cash flow to repay a commercial loan, in which case financing by IRFA may not be necessary?

c. Can the project reasonably be expected to generate enough cash flow to cover all operating expenses, including an allocation for maintenance-of-way sufficient to maintain the property, where applicable?

d. Can the project reasonably be expected to generate enough cash flow above and beyond operating expenses to repay an IRFA loan?

e. If the project cannot reasonably be expected to be able to repay a loan, would the project be financially viable with an IRFA grant?

f. If a project is found to have a reasonable chance of being financially viable with IRFA assistance, how much of that assistance is necessary and what financing terms are necessary to achieve viability?

g. Are the total public benefits (public benefits plus user benefits) from the project greater or less than the total public costs (all costs of proposed financial assistance from government and users)?

4.3(3) *Recommendation.* The staff shall not recommend funding for a project unless all of the following conditions are satisfied:

a. The net present value of the proposed project is positive, or the benefits to the public, user(s), and carrier(s) which have no determinable precise monetary value are judged by staff to outweigh a negative calculation. The benefits with no determinable precise monetary value may include, but are not limited to, the following:

(1) Safety impacts; e.g., reduced likelihood of accidents involving personal injury or hazardous cargoes.

(2) Economic development impacts; e.g., increase in employment opportunities or increase in industrial development.

(3) Environmental impacts; e.g., changes in ambient noise levels or air quality.

b. The staff finds the application is consistent with the policies and plans of the state transportation commission, as submitted to the general assembly.

c. The financial analysis indicates the applicant is financially responsible and able to undertake the project.

This rule is intended to implement Iowa Code subsections 327I.7(6), 327I.7(7), 327I.7(8), and 327I.8(2).

765—4.4(327I) Board action.

4.4(1) The staff shall present the complete application and the recommendation to the board at a public meeting within 90 days after the application is considered complete under rule 4.1(17A,327I). The board shall receive copies of the application and the recommendation at least seven days before the presentation date.

4.4(2) The board shall approve or deny the complete application within 30 days after the presentation.

4.4(3) If the application is approved, the board shall direct the secretary to prepare the necessary contracts to be submitted to the board for approval.

4.4(4) If the board denies the application, it may be submitted as a new application. The board shall provide the applicant with written reasons for denial of an application.

This rule is intended to implement Iowa Code subsections 327I.7(6), 327I.7(7), and 327I.7(8).

765—4.5(327I) Contract approval.

4.5(1) After the board has approved the application for financial assistance, the staff shall negotiate a contract with the applicant.

4.5(2) The contract negotiations shall be completed within six months after board approval of the application or the application shall be considered rejected.

4.5(3) Prior to execution of the contract, the authority may perform a preaudit evaluation of the loan applicant. The preaudit evaluation may include, but shall not be limited to, the following:

a. An examination of the applicant's accounting methods and procedures to determine the applicant's ability to segregate and accumulate costs to be charged against the project and to be charged for subsequent maintenance of the rail line.

b. An examination of the applicant's cost factors to ensure their propriety and allowability.

c. An examination of any other general information which might be pertinent or necessary in determining the applicant's auditability.

4.5(4) If the preaudit evaluation shows that revisions are necessary to ensure the applicant's auditability, the revisions shall become an obligation of the applicant in the contract.

4.5(5) The staff shall present the proposed contract to the board for final approval.

This rule is intended to implement Iowa Code subsections 327I.7(6), 327I.7(7), and 327I.7(8).

765—4.6(327I) Project monitoring. Each project shall be monitored as outlined in the contract.

This rule is intended to implement Iowa Code subsections 327I.7(6), 327I.7(7), and 327I.7(8).

[Filed 4/17/81, Notice 3/4/81—published 5/13/81, effective 6/17/81]

[Filed 5/5/83, Notice 3/30/83—published 5/25/83, effective 6/29/83]¹

[Filed emergency 6/29/83—published 7/20/83, effective 6/29/83]

[Filed 9/6/83, Notice 7/20/83—published 9/28/83, effective 11/2/83]

[Filed emergency 1/13/84—published 2/1/84, effective 1/13/84]
[Filed 3/9/84, Notice 2/1/84—published 3/28/84, effective 5/2/84]
[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]
[Filed emergency 7/20/88—published 8/10/88, effective 7/20/88]

¹ Effective date of 6/29/83 on 4.3(3)“a” delayed 70 days by the Administrative Rules Review Committee on 6/14/83.